

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MINNESOTA**

In re: Baycol Products Litigation

UNITED STATES OF AMERICA *ex rel.*
LAURIE SIMPSON,

Honorable Michael J. Davis
United States District Court Judge

Plaintiff,

v.

BAYER HEALTHCARE
PHARMACEUTICALS, INC.;
BAYER CORP.; and
BAYER A.G.,

MDL No. 1431
Civil No. 08-5758-MJD-ECW

Defendants.

JOINT STATUS REPORT

In accordance with the Court's January 18, 2019 Order (ECF No. 178), Relator Laurie Simpson ("Relator") and Defendants Bayer Healthcare Pharmaceuticals, Inc., Bayer Corp., and Bayer A.G. ("Bayer") (together, the "Parties"), respectfully submit the following Joint Status Report.

By way of background, in January 2019, Magistrate Judge Rau ordered the Parties to submit monthly joint status reports one week before scheduled monthly telephone status conferences. ECF No. 178. The next such status conference is scheduled for November 26, 2019 at 10:00 a.m. *Id.* The Parties were saddened to learn of Magistrate Judge Rau's passing, but submit this Joint Status Report in compliance with his Order. The Parties welcome Magistrate Judge Wright's guidance regarding how to proceed with this matter going forward.

Since the last Joint Status Report submitted on October 15, 2019, the Parties have continued to make progress regarding discovery. Specifically, on November 1, 2019, Bayer made its second production of documents in response to Relator's Second Request for Production of Documents. To date, Bayer has produced over 15,000 pages of documents in response to Relator's Second Request for Production. Bayer anticipates completing its response to Relator's Second Request for Production on or before November 27, 2019. In addition, Bayer is in the process of scheduling a meet and confer to discuss its subpoena for documents served on September 24, 2019, on the Department of Defense ("DoD"), which has asserted various objections to the subpoena related to the DoD's *Touhy* regulations. Finally, on November 18, 2019, Relator made her first production of documents in response to Bayer's First Request for Production of Documents, which consisted of re-producing the document production that had been made to Bayer in the New Jersey litigation. The Parties are continuing to meet and confer regarding the search terms and date cutoff that Relator will use in connection with her response to Bayer's First Request for Production. Given the current status of discovery, the Parties are also evaluating whether there is a need to propose amendments to the current schedule.

At this time, the Parties do not believe that there are any discovery issues that require the Court's intervention. The Parties are available if the Court wishes to discuss the status of discovery at the conference scheduled for November 26, 2019, but, in light of the foregoing, the Parties believe that the status conference may be cancelled.

Dated: November 19, 2019

Respectfully submitted,

KESSLER TOPAZ
MELTZER & CHECK LLP
/s/ Asher Alavi

Asher Alavi
aalavi@ktmc.com
David Bocian
dbocian@ktmc.com
280 King of Prussia Road
Radnor, PA 19087
(484) 270-1402

Counsel for Relator Laurie Simpson

Respectfully submitted,

BARTLIT BECK HERMAN
PALENCHAR & SCOTT LLP
/s/ Adam Hoeflich

Philip S. Beck
Adam Hoeflich
54 W. Hubbard Street, Suite 300
Chicago, IL 60603
(312) 494-4400

SIDLEY AUSTIN LLP
/s/ Kristin Graham Koehler
Kristin Graham Koehler (*pro hac vice*)
kkoehler@sidley.com
Ryan C. Morris (*pro hac vice*)
rmorris@sidley.com
Joshua J. Fougere (*pro hac vice*)
jfougere@sidley.com
Matthew J. Letten (*pro hac vice*)
mletten@sidley.com
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000

DORSEY & WHITNEY LLP
/s/ John Marti

John Marti (#0388393)
marti.john@dorsey.com
Alex P. Hontos (#0388355)
hontos.alex@dorsey.com
Caitlin L.D. Hull (#0398394)
hull.caitlin@dorsey.com
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402
(612) 340-2600

*Counsel for Defendants Bayer
Corporation, Bayer AG, and
Bayer Healthcare Pharmaceuticals, Inc.*